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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,553	11/20/2003	Gordon John Lamont	9351-197	5684

1059 7590 11/02/2004

BERESKIN AND PARR  
SCOTIA PLAZA  
40 KING STREET WEST-SUITE 4000 BOX 401  
TORONTO, ON M5H 3Y2  
CANADA

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT	-	PAPER NUMBER
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3753

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/716,553	Applicant(s) LAMONT ET AL.	
	Examiner Ramesh Krishnamurthy	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2004.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/16/04</u> . | 6) <input type="checkbox"/> Other: _____  |

This office action is responsive to communications filed 06/16/2004.

**Claims 1 – 4 are pending.**

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119 (e) as follows:
2. If applicant desires priority under 35 U.S.C. 119 (e) based upon a previously filed application, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the

application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to because of the defects listed on the attached PTO-948 form. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The disclosure is objected to because of the following informalities: In paragraph [0127] line 1, it appears that "4" needs to be replaced with - - 8 - -.

Appropriate correction is required.

6. The abstract of the disclosure is objected to because of the use of legal phraseology such as "said". Correction is required. See MPEP § 608.01(b).

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2 – 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. The dependency of each of the claims 2, 3 and 4 is not stated in the claims rendering these claims indefinite. In this office action, each of the claims 2, 3 and 4 is taken to depend from claim 1.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 1,110,070.

The document FR 1,110,070 discloses (Fig. 2) a pressure control system for controlling the pressure of a process fluid stream at a certain location, comprising:

(a). a pressure regulator (2') mounted downstream of an upstream process fluid line, the regulator having a closure member movable between open and closed positions for controlling process fluid flow through the fluid line, and a control chamber (7) for housing an actuator fluid, wherein the position of the closure member changes in response to changes in the pressure of the fluid housed in the control chamber;

(b). an inspirator (10) having an inlet, an outlet, and a throat between the inlet and outlet, the control chamber of the regulator being in flow communication with the throat of the inspirator;

(c). a primary pilot (7') having a primary valve member in fluid communication with the outlet of the inspirator, the primary valve member being movable between open and closed positions to control the flow of actuator fluid exiting the outlet of the inspirator, the primary pilot having a target pressure chamber and a sensed pressure chamber and a linkage configured to move the position of the primary valve member in response to a pressure differential between the target and sensed pressure chambers, and wherein the sensed pressure chamber is in fluid communication with a sensing point along the process fluid line at which the pressure of the process fluid is to be controlled',

(d). a secondary pilot (8) having a secondary valve member mounted downstream of a supply of actuator fluid and upstream of the inspirator inlet and movable between open and closed positions to control the flow of actuator fluid to the inspirator, the secondary pilot having a target pressure chamber and a sensed pressure chamber and a linkage configured to move the position of the secondary valve member in response to a pressure differential between the target and sensed pressure chambers; and

(e). a target pressure source (22) in fluid communication with the target pressure chambers of the primary pilot and the secondary pilot and adjustable to select a desired pressure to be maintained at the sensing point in the process fluid stream.

The apparatus also includes a closure member that is equivalent to a diaphragm, stabilizing needle valve (9) between target pressure source and target chamber of secondary pilot.

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR 1,110,070 as applied to claims 1 - 3 above, and further in view of Yonnet (US 5,460,196).

The document FR 1,110,070 discloses the claimed invention with the exception of explicitly disclosing the actuator fluid to be independent of process fluid line.

Yonnet includes a pressure control system in which a pilot (16) controls a pressure regulator (10) and discloses (Col. 10, lines 28 - 32) that it is known in the art to substitute independent actuator fluid supply for a supply derived from process fluid line, since such independent actuator fluid supply clearly would allow for enhanced flow control.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in FR 1,110,070 an actuator fluid supply that is independent of process fluid line, for the purpose of obtaining enhanced flow control as evident from Yonnet.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene L. Mancene, can be reached on (703) 308 - 2696. The fax phone

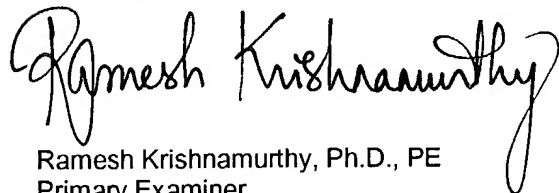


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number for the organization where this application or proceeding is assigned is (703) 872 – 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
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